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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

RONALD W. HENDRICKSON,

Plaintiff and Appellant,

v.

JOHN PATRICK REIDY, SR.,
Individually and as Trustee, etc. et al.,

Defendants and Respondents.

E069939

(Super.Ct.No. RIC1505625)

OPINION

APPEAL from the Superior Court of Riverside County. Stephen D. Cunnison, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Thompson & Associates and Linda J. DeVore for Plaintiff and Appellant.

Law Offices of Deborah L. Zoller and Deborah L. Zoller for Defendant and Respondent Danny Dwyer.

No appearance for Defendants and Respondents John Patrick Reidy, Sr., and Avis Reidy.

In November 2013, plaintiff and appellant Ronald Hendrickson (Hendrickson) obtained a bankruptcy judgment against defendant and respondent John Reidy Sr. (Reidy) for \$1,305,460. Reidy did not pay Hendrickson the money owed for the judgment. In 2015, Hendrickson sued (1) Reidy, as an individual and as trustee of The Reidy Family Trust dated June 8, 1998 (the trust); (2) Danny Dwyer (Dwyer); and (3) others. Hendrickson's lawsuit was based upon the former Uniform Fraudulent Transfer Act (UFTA), which is now known as the Uniform Voidable Transaction Act. (Civ. Code, § 3439.)¹

In the 2017 lawsuit, five causes of action were at issue. First, Hendrickson alleged there was an improper transfer concerning real property in Aguanga, California. Second, Hendrickson sought declaratory relief reflecting the trust assets were subject to Hendrickson's collection efforts. Third, Hendrickson alleged Dwyer, Reidy, and others conspired to violate the UFTA. Fourth, Hendrickson alleged there was an improper transfer concerning real property in Wildomar, California. Fifth, Hendrickson alleged Reidy operated a brokerage without a broker's license and the sales commission money obtained by Reidy, Dwyer, and others should be awarded to Hendrickson.

In regard to the declaratory relief cause of action, Reidy stipulated that a judgement for declaratory relief, in favor of Hendrickson, could be entered. A bench trial was held on the remaining issues. At the close of Hendrickson's case, Dwyer moved for judgment on the basis of Hendrickson's failure to provide sufficient

¹ All subsequent statutory references will be to the Civil Code unless otherwise indicated.

evidence. (Code Civ. Proc., § 631.8.) Reidy joined in Dwyer's motion. The trial court granted the declaratory relief sought by Hendrickson—declaring the trust assets were subject to Hendrickson's collection efforts. In all other respects, the trial court granted the motion and entered judgment in favor of Reidy and Dwyer. Hendrickson raises 15 issues on appeal. We affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

A. HENDRICKSON'S EVIDENCE

Hendrickson and Reidy worked together. Reidy had a real estate broker's license and operated a sole proprietorship under the name Reidy Realty. Reidy also owned a company named Murrieta Mortgage. In 2008, Hendrickson discovered Reidy embezzled money from Hendrickson via escrow accounts. In 2008, Hendrickson sued Reidy. In 2012, Reidy and Murrieta Mortgage entered bankruptcy. In December 2012, Reidy was notified of a ruling by an administrative law judge reflecting Reidy's broker's license would be revoked.

On February 11, 2013, Reidy abandoned Reidy Realty as a fictitious business name. Reidy explained that, after his broker's license was revoked, Reidy could no longer have the dba of Reidy Realty. Dwyer was an associate broker at Reidy Realty. After Reidy's license was revoked, Dwyer became the broker of record for Reidy Realty, and, on February 11, 2013, Dwyer acquired the dba of Reidy Realty. Reidy continued to oversee Reidy Realty's staff, transactions, and bank account. In regard to the business structure, Reidy explained that Reidy was the owner of Reidy Realty, and

Dwyer was the broker who oversaw the real estate transactions. In other words, Dwyer's "job was to check the paperwork of each transaction and sign it off."

On November 8, 2013, Hendrickson obtained a judgment against Reidy, in bankruptcy court, for \$1,305,460. Reidy did not pay Hendrickson the money owed for the judgment.

At some point before or during 2014, Reidy was hospitalized due to illness. While Reidy was hospitalized, Dwyer opened a bank account (Dwyer's Account) in order to maintain the Reidy Realty business—the prior Reidy Realty accounts were held by Reidy, who was hospitalized. After Reidy was released from the hospital, Dwyer added Reidy as a signatory to Dwyer's Account. Dwyer's Account held Reidy Realty's money, but Dwyer had no control over Dwyer's Account or the management of Reidy Realty.

Reidy or Murrieta Mortgage had a promissory note for \$65,000 that was owed by Byung Min and Myoki Min; they were obligated to make monthly payments on the note. The loan concerned a property located in Aguanga. Reidy agreed to settle the note for \$49,000 because Reidy needed cash. Reidy deposited the \$49,000 into Dwyer's Account. The money for the promissory note was owed to the trust—not Reidy Realty. Reidy and his wife, Avis, were trustees of the trust. Reidy deposited the money in Dwyer's Account because Reidy used Dwyer's Account to "pay all the bills," including Reidy's personal bills.

Reidy's son died, and Reidy was the executor of his son's probate estate.

Reidy's probate attorney listed Reidy as the broker handling the sale of the son's assets.

Reidy, as executor of the probate estate, borrowed \$72,000 to remove his late son's house from a bankruptcy case. On January 5, 2015, Reidy Realty earned an \$11,250 commission on the sale of Reidy's late son's house. The \$72,000 and \$11,250 were deposited into Dwyer's Account.

Murrieta Mortgage owned a property in Wildomar (the Wildomar property). The Wildomar property was subject to a \$100,000 "loan encumbrance." J.A.W. Land & Trading LLC, an investment group, held the loan. In Murrieta Mortgage's bankruptcy, Reidy valued the Wildomar property at \$150,000. The bankruptcy trustee intended to abandon the Wildomar property, and a hearing was held on the issue. Nobody objected to the abandonment. Murrieta Mortgage deeded the property to J.A.W. in lieu of foreclosure without any compensation. Murrieta Mortgage deeded the property in lieu of foreclosure to save the investors the cost of foreclosing. In April 2014, Dwyer purchased the Wildomar property from J.A.W. for \$125,000. Hendrickson's expert opined that the Wildomar property was worth \$154,000 to \$160,000 in April 2014 when J.A.W. sold it to Dwyer. Reidy learned that Dwyer purchased the Wildomar property after Dwyer closed escrow.

Reidy did not use Dwyer's Account to hide the foregoing transactions. Reidy said, "Everything we did was out in the open. If I was hiding it, I wouldn't put them right in a bank account." Reidy believed he was free to use the money as he wished because there were no liens placed on the Min transaction or the probate transaction.

Reidy explained that, for the 30 years that he was the broker of record for Reidy Realty, he always used his John P. Reidy dba Reidy Realty bank account for his business and personal transactions. Reidy never had an intent to hide his involvement with Reidy Realty. In May 2015, Reidy sold Reidy Realty to Mr. Wallace.

B. DEFENDANTS' MOTION

At trial, after Hendrickson rested, Dwyer made a motion for non-suit (Code Civ. Proc., § 581c), which the trial court deemed to be a motion for judgment (Code Civ. Proc., § 631.8). Dwyer asserted that Hendrickson failed to prove (1) Dwyer was a debtor under the UFTA, (2) that there was any fraud in Murrieta Mortgage deeding the Wildomar property to J.A.W. in lieu of foreclosure, and (3) that Reidy deposited money in Dwyer's Account with an intent to defraud.

In regard to the lack of evidence demonstrating Reidy used Dwyer's Account with an intent to defraud, Dwyer argued, "There was no intent to hide it—anything from Mr. Hendrickson's collection efforts. [Reidy] was at the same address, still had his name on the property. . . . [T]here's no evidence before you that any liens had been placed on any money that went into that account, and there's no evidence that Mr. Reidy has no authority to pay any creditors that he wants from the business that he believes he owns. There's no—no evidence that he intended to hide anything. He tried to be—his testimony is he tried to be as transparent as he could be, and there was no evidence to dispute that." Reidy agreed with the argument made by Dwyer. Reidy requested the court dismiss the case with prejudice.

Hendrickson asserted that when Reidy deposited money into Dwyer's Account, the money became Dwyer's money and therefore Dwyer was a transferee. Hendrickson asserted that when Reidy deposited the money into Dwyer's Account, then Hendrickson was unable to reach it as Reidy's creditor. Hendrickson argued that Reidy's act of depositing the money into Dwyer's Account was "clearly an action which is intended to frustrate."

Hendrickson asserted, "Mr. Reidy may say, well, this is just what I do. We ask that you discredit that testimony. This is a man who's been held liable for \$1.3 million worth of a fraud against [Hendrickson] in bankruptcy court. He has every incentive and every presumption that that's what he'll continue to do, is try and keep Mr. Hendrickson from getting his money."

Dwyer argued, "They want to tell you that because of this bank account that they couldn't do anything. It totally hindered Mr. Hendrickson's ability to collect. Well, they never put any liens on any of the properties that were released from bankruptcy. I mean . . . they haven't proved up that they have the right even to collect that money yet. [¶] Just because Mr. Reidy comes in to possession of some fungible money does not automatically mean he has to give it to Mr. Hendrickson."

Turning to the topic of intent, Dwyer said, "They have to show that there was a underlying fraudulent conveyance. And a conveyance is not fraudulent without actual intent by the debtor to give that property to a third person to hide from a creditor [¶] So they just not have sustained their burden of proving their prima facie case."

After taking a recess, the trial court granted Dwyer's and Reidy's motion for judgment. The trial court signed a statement of decision that was drafted by Dwyer. One of the findings in the statement of decision was: "[Hendrickson] failed to present evidence that Defendant REIDY transferred an[y] asset(s) to Defendant DWYER with the intent to hinder, delay or defraud one or more of his creditors."

DISCUSSION

A. BACKGROUND LAW

The UFTA " 'permits defrauded creditors to reach property in the hands of a transferee.' [Citation.] 'A fraudulent conveyance is a transfer by the debtor of property to a third person undertaken with the intent to prevent a creditor from reaching that interest to satisfy its claim.' [Citation.] The transferee 'holds only an apparent title [to the transferred property], a mere cloak under which is hidden the hideous skeleton of deceit, the real owner being the scheming and shifty judgment debtor' [Citation.] The purpose of the voidable transactions statute is ' "to prevent debtors from placing property which legitimately should be available for the satisfaction of demands of creditors beyond their reach." '

"A creditor seeking to set aside a transfer as fraudulent under section 3439.04 may satisfy either subdivision (a)(1) by showing actual intent, or subdivision (a)(2) by showing constructive fraud. [Citations.] Under the U[F]TA, 'transfer of assets made by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer, if the debtor made the transfer (1) with an actual intent to hinder, delay or defraud any creditor, or (2) without receiving reasonably equivalent value in return, and

either (a) was engaged in or about to engage in a business or transaction for which the debtor's assets were unreasonably small, or (b) intended to, or reasonably believed, or reasonably should have believed, that he or she would incur debts beyond his or her ability to pay as they became due.' [Citation.] [¶] The U[F]TA allows a judgment to be entered against (1) the first transferee of the fraudulently transferred asset, (2) the transfer beneficiary, and (3) any subsequent transferee other than a good faith transferee." (*Lo v. Lee* (2018) 24 Cal.App.5th 1065, 1071.)

B. ANALYSIS

Hendrickson's contentions are not presented via any organizational method that we can discern. Hendrickson appears to address multiple topics under a single point heading. The point headings do not match the discussions underneath the respective point headings. Some topics begin under one point heading, but then resume under another point heading. We are not inclined to repair this situation by stitching the arguments together and then supplementing them to create coherent reasoning. Accordingly, we will address the arguments in the order presented by Hendrickson. Specifically, we address the topics discussed underneath the point headings.

First, Hendrickson asserts the term "transfer" in section 3439.04 should be defined as including money laundering. Hendrickson does not provide a discussion concerning the plain language of section 3439.04. (*Tract 19051 Homeowners Assn. v. Kemp* (2015) 60 Cal.4th 1135, 1143 [statutory interpretation begins by analyzing the plain language of a statute].) Because Hendrickson does not provide meaningful

analysis of the statute's plain language, the issue is forfeited. (*Medrazo v. Honda of North Hollywood* (2012) 205 Cal.App.4th 1, 15 (*Medrazo*).)

Second, Hendrickson asserts, "The issue in this appeal thus revolves around whether or not Reidy disposed of assets by depositing negotiable instruments to Dwyer's bank account." In Dwyer's motion for judgment on the pleadings, Dwyer conceded there was evidence reflecting Reidy deposited money into Dwyer's Account; Dwyer's motion was based upon Hendrickson's failure to prove "actual intent to hinder, delay, or defraud" (§ 34399.04). Hendrickson argued, "There was no intent to hide it—anything from Mr. Hendrickson's collection efforts." The trial court's statement of decision reflects it found that Hendrickson failed to prove intent related to the deposits into Dwyer's Account. Hendrickson fails to address the issue of intent. Accordingly, we are not persuaded that the judgment needs to be reversed.

Third, under Hendrickson's eighth point heading, he asserts he is presenting an issue of statutory interpretation; however, he fails to identify a statute and term or phrase to be interpreted. To the extent Hendrickson intended to raise an issue of statutory interpretation, we deem the issue forfeited due to the failure to support the assertion with meaningful legal analysis. (*Medrazo, supra*, 205 Cal.App.4th at p. 15.)

Fourth, Hendrickson asserts, "Reidy's answer that no liens were ever placed upon the assets and that he truly believed he was free to do as he pleased with the money does not ring true. These are the types of things which ought to be considered when evaluating if Reidy's testimony is/was credible." An appellate court does not reevaluate the credibility of witnesses. (*Foust v. San Jose Construction Co., Inc.* (2011)

198 Cal.App.4th 181, 188.) Accordingly, to the extent Hendrickson is asserting the trial court erred in finding Reidy to be a credible witness, we defer to the trial court's finding of credibility, and therefore find Hendrickson's contention to be unpersuasive. (*Shade Foods, Inc. v. Innovative Products Sales & Marketing, Inc.* (2000) 78 Cal.App.4th 847, 889 [deference to trier of fact's finding of credibility].)

Fifth, Hendrickson contends that although he was not required to prove Reidy's intent to defraud, Hendrickson nevertheless established intent to defraud via circumstantial evidence. Hendrickson (1) fails to identify the relevant circumstantial evidence, and (2) fails to provide analysis of how the evidence could support a finding in Hendrickson's favor. Due to Hendrickson's failure to provide meaningful analysis, we deem the issue to be forfeited. (*Medrazo, supra*, 205 Cal.App.4th at p. 15.)

Sixth, Hendrickson asserts that instead of proving Reidy's intent to defraud, Hendrickson was required to prove Reidy made an undervalued transfer to Dwyer while Reidy was insolvent. Section 3439.05, subdivision (a), provides, "A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation."

Hendrickson asserts Reidy was insolvent in 2015 because Reidy still owed Hendrickson \$1,000,000. Hendrickson provides no record citations to support this assertion. (Cal. Rules of Court, rule 8.204(a)(1)(C).) Hendrickson asserts Reidy was insolvent because “at some point” in Reidy’s bankruptcy proceedings or Murrieta Mortgage’s bankruptcy proceedings, Reidy was not in a position to recommence making loan payments on the Wildomar property. Hendrickson does not explain why Reidy not being in a position to make loan payments means Reidy was insolvent. Nevertheless, we will assume, without deciding, that the evidence would support a finding that Reidy was insolvent.

The fundamental problem in Hendrickson’s argument is that Hendrickson fails to explain how, in making cash deposits into Dwyer’s Account, Reidy “made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation.” (§ 3439.05, subd. (a).) Hendrickson asserts that Reidy was using Dwyer’s Account as Reidy’s personal and business account, i.e., Reidy was allegedly laundering his money through Dwyer’s Account. Hendrickson asserts “Dwyer abandoned his right to monitor the account and control the funds in the count.” Given Hendrickson’s position that Reidy controlled Dwyer’s Account, it is unclear how Reidy failed to get the proper value for the cash he deposited. If Reidy was the only person withdrawing money from Dwyer’s Account, then it would appear Reidy received the full value of his deposits. In sum, we find Hendrickson’s argument to be unpersuasive.

Seventh, under Hendrickson's ninth point heading, he asserts he is presenting an issue of statutory interpretation; however, he fails to identify a statute and term or phrase to be interpreted. To the extent Hendrickson intended to raise an issue of statutory interpretation, we deem the issue forfeited due to the failure to support the assertion with meaningful legal analysis. (*Medraza, supra*, 205 Cal.App.4th at p. 15.)

Eighth, Hendrickson asserts that "Dwyer was a transferee under UFTA" because Reidy deposited money into Dwyer's Account and money from that account was used by Reidy to pay business expenses for the business in which Dwyer was named as the broker, i.e., Reidy Realty. Hendrickson fails to explain in what manner the judgment would be impacted by a finding that Dwyer is a transferee. In other words, assuming, without deciding, that Dwyer is a transferee, it is unclear how the judgment would change given Hendrickson's failure to (1) prove intent to defraud (§ 3439.04, subd. (a)), and/or (2) explain how Reidy did not receive a reasonably equivalent value for the cash deposited into Dwyer's Account (§ 3439.05, subd. (a)).

Ninth, Hendrickson asserts Dwyer was not a good-faith transferee of Reidy's funds because Dwyer "had actual knowledge of sufficient facts to suggest to a reasonable broker that what he and Reidy were doing was fraudulent." The law provides, "A transfer or obligation is not voidable under paragraph (1) of subdivision (a) of Section 3439.04, against a person that took in good faith and for a reasonably equivalent value given the debtor or against any subsequent transferee or obligee." (§ 3439.08.)

Hendrickson asserts, “Dwyer abandoned his right to monitor and control the funds in the account.” Thus, Hendrickson is arguing that Dwyer received cash, but that Reidy continued to control the cash after depositing it into Dwyer’s Account. Assuming all of that is true, Hendrickson has not (1) established intent to defraud (§ 3439.04, subd. (a)), and/or (2) explained how Reidy did not receive a reasonably equivalent value for the cash deposited into Dwyer’s Account (§ 3439.05, subd. (a)). If Reidy was in total control of the money in Dwyer’s Account, then Reidy was receiving the value of the money. Accordingly, we are not persuaded by Hendrickson’s assertion that he established Dwyer was not a good-faith transferee.

Tenth, Hendrickson contends the trial court erred by requiring Hendrickson to prove Dwyer’s knowledge of each of Reidy’s deposits into Dwyer’s Account. Hendrickson does not support this contention with an analysis of the statutory language. (*Tract 19051 Homeowners Assn. v. Kemp, supra*, 60 Cal.4th at p. 1143 [statutory interpretation begins by analyzing the plain language of a statute].) Hendrickson does not explain the elements of the cause of action and does not explain why the law would permit a transfer to be voided when the transferee lacked knowledge of the transfer. Due to Hendrickson’s failure to explain why the trial court’s interpretation of the law is not supported by the statutory language, we deem the issue to be forfeited. (*Medraza, supra*, 205 Cal.App.4th at p. 15.)

Eleventh, under Hendrickson’s eleventh point heading, he asserts he is presenting an issue of statutory interpretation; however, he fails to identify a statute and term or phrase to be interpreted. To the extent Hendrickson intended to raise an issue of

statutory interpretation, we deem the issue forfeited due to the failure to support the assertion with meaningful legal analysis. (*Medraza, supra*, 205 Cal.App.4th at p. 15.)

Twelfth, Hendrickson had alleged a conspiracy cause of action. Prior to trial, the trial court granted a motion for judgment on the pleadings in favor of all defendants on the conspiracy cause of action. Hendrickson asserts, “There was a conspiracy to violate UFTA and Hendrickson would like another chance to prove it. . . . [A] Third Amended Complaint is needed.” Hendrickson asserts, “If there is no violation of UFTA by Reidy, then of course, no one could have liability for conspiring with Reidy.” Hendrickson has not demonstrated that an error occurred in the trial court’s finding that Hendrickson failed to establish a violation of the UFTA. Consequently, we conclude the trial court did not err in its ruling on the conspiracy cause of action.

Thirteenth, Hendrickson asserts the judgment should be reversed because the evidence is inherently improbable. Hendrickson bore the burden of proof in this case (§ 3439.04, subd. (c)), and Hendrickson was the only party to offer evidence. If the evidence was inherently improbable, then it was Hendrickson’s evidence that was improbable. Accordingly, we find Hendrickson’s contention to be unpersuasive.

Fourteenth, Hendrickson contends the trial was procedurally unfair because Dwyer did not testify. Toward the end of the trial, Hendrickson informed the trial court that he wanted to call Dwyer as a witness, but Dwyer had not personally attended the trial. Hendrickson showed the trial court a witness list, which included Dwyer. The trial court responded, “I don’t think the list of witnesses is a—is any kind of a requirement that the witness attend. It’s not a subpoena. It’s not a notice. It’s just a list

of witnesses of whom you expect to call.” The trial court explained that if Hendrickson had raised the issue at the beginning of the trial, then the court “would have been inclined to work with [Hendrickson] in either affording [him] time to go out and serve a subpoena on Mr. Dwyer or some way of working things out.” The court concluded Hendrickson was raising the issue “a little late.”

The trial court permitted Hendrickson to make an offer of proof concerning Dwyer’s testimony. The trial court found the information in the offer of proof was “already in evidence through other witnesses or documents.” Therefore, the trial court concluded there would be little purpose to affording Hendrickson time to subpoena Dwyer.

On appeal, Hendrickson does not explain in what portion of the trial court’s ruling, concerning calling Dwyer as a witness, the trial court allegedly erred. Hendrickson does not explain why his inability to examine Dwyer rendered the trial unfair. Accordingly, due to Hendrickson’s failure to support his assertion with meaningful legal analysis, we deem the issue to be forfeited. (*Medraza, supra*, 205 Cal.App.4th at p. 15.)

Fifteenth, Hendrickson asserts the trial was procedurally unfair due to “the procedural history of this case.” Hendrickson does not identify what portion of the procedural history of the case rendered the trial unfair. To the extent Hendrickson is asserting the entire procedural history of the case rendered the trial unfair, Hendrickson does not offer legal analysis explaining in what manner the trial was rendered unfair.

Accordingly, due to Hendrickson's failure to support his assertion with meaningful legal analysis, we deem the issue to be forfeited. (*Medrazo, supra*, 205 Cal.App.4th at p. 15.)

We now turn to Hendrickson's five requests for judicial notice. Hendrickson requests we take judicial notice of the Black's Law Dictionary's definition of "sole proprietorship" and California Code of Regulations title 10 section 2725.5 concerning a broker's responsibilities toward debarred persons. We deny those two requests because they concern published material. (*Quelimane Co v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 45, fn. 9 ["A request for judicial notice of published material is unnecessary. Citation to the material is sufficient"].)

Hendrickson's other three requests for judicial notice concern: (1) a supplement to a final accounting and petition for settlement filed in the probate case of Reidy's late son (*Estate of Robin Andrew Reidy AKA Robin A. Reidy* (Super. Ct. Riverside County, case No. MCP1300240)); (2) minute orders filed in another case between Hendrickson and Reidy (*Hendrickson v. Reidy et al.* (Super. Ct. Riverside County, case No. RIC1505625)); and (3) an order for a writ of attachment filed in the other case between Hendrickson and Reidy (*Hendrickson v. Reidy et al.* (Super. Ct. Riverside County, case No. RIC1505625)). We deny these three requests because the documents are not relevant to resolving the issues on appeal. (*People ex rel. Lockyer v. Shamrock Foods Co.* (2000) 24 Cal.4th 415, 422, fn. 2 ["any matter to be judicially noticed must be relevant to a material issue"].)

DISPOSITION

The judgment is affirmed. Respondent, Danny Dwyer, is awarded his costs on appeal.² (Cal. Rules of Court, rule 8.278(a)(1).)

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

MILLER

J.

We concur:

RAMIREZ

P. J.

RAPHAEL

J.

² Defendants and respondents John and Avis Reidy have not made an appearance in this court. Therefore, we do not make an award of costs in their favor. (Cal. Rules of Court, rule 8.278(a)(5).)